UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,123	01/03/2006	Yoichiro Terasawa	OMY-0051	1190

23353   7590   06/17/2010
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ART UNIT	PAPER NUMBER
2191	

MAIL DATE	DELIVERY MODE
06/17/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/563,123	TERASAWA, YOICHIRO
	Examiner	Art Unit
	Qing Chen	2191

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>03 January 2006</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-12</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-12</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>03 January 2006</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>20060103, 20070320</u>.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   This is the initial Office action based on the application filed on January 3, 2006.

2.   **Claims 1-12** are pending.

Information Disclosure Statement

3.   The information disclosure statements filed on January 3, 2006 and March 20, 2007 have been considered by the Examiner. All cited documents identified as "International Search Report" and "Office Action" are considered by the Examiner. However, these cited documents are official documents that are sent to Applicants in response to examination of patent applications and cannot be listed in a printed patent publication. An initial of the Examiner will cause these cited documents to be listed in the printed patent publication and therefore, a strikethrough of these cited documents is applied.

The cited documents considered by the Examiner but will not be listed in the printed patent publication are as follows (in no particular order):

- International Search Report of PCT/JP03/14265 mailed on 2/17/2004
- International Search Report of PCT/JP2004/006752 mailed on 6/29/2004
- International Search Report mailed on 6/29/2004
- Office Action mailed on 10/25/05

Specification

4.   The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: INFORMATION PROCESSOR, SOFTWARE

UPDATING SYSTEM, SOFTWARE UPDATING METHOD, AND ITS

PROGRAM FOR UPDATING MODULES ON A USER COMPUTER.

5.   Applicant is reminded of the proper language and format for an abstract of the disclosure.

        The abstract should be in narrative form and generally limited to a single paragraph on a
separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed
150 words in length since the space provided for the abstract on the computer tape used by the
printer is limited. The form and legal phraseology often used in patent claims, such as "means"
and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist
readers in deciding whether there is a need for consulting the full patent text for details.

        The language should be clear and concise and should not repeat information given in the
title. It should avoid using phrases which can be implied, such as, "The disclosure concerns,"
"The disclosure defined by this invention," "The disclosure describes," etc.

6.   The abstract of the disclosure is objected to because:

        •   It contains more than one paragraph;

        •   It contains subject headers; and

        •   It contains drawing reference numbers.

        Correction is required. See MPEP § 608.01(b).

                                    Claim Objections

7.   **Claims 1-12** are objected to because of the following informalities:

        •   **Claims 1-12** recite the limitations:

            o   "the storing regions,"

o "the update software,"

o "the modules," and

o "the users."

Applicant is advised to change these limitations to read:

o "the plurality of storing regions,"

o "the plurality of update software,"

o "the list of modules," and

o "the plurality of users," respectively,

for the purpose of providing them with proper explicit antecedent bases.

- **Claim 11** contains a typographical error: "[A]n user" should read -- a user --.

Appropriate correction is required.

Claims 1-12 contain additional claim informalities which are not listed for the purpose of brevity. Applicant is respectfully requested to review the pending claims for additional claim informalities and make any necessary corrections. In accordance with MPEP § 2173.02, the Examiner suggests keeping the claim language consistent throughout the claims to improve the clarity or precision of the claim language used. Hence, doing so would help the Examiner in reviewing the claims for compliance with 35 U.S.C. § 112, second paragraph.

Claim Rejections - 35 USC § 112

8.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9.   **Claims 1-10 and 12** are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

        Claims 1-10 recite various means plus function limitations that invoke 35 U.S.C. § 112,

sixth paragraph. However, the written description fails to disclose the corresponding structure,

material, or acts for the claimed functions. "If one employs means plus function language in a

claim, one must set forth in the specification an adequate disclosure showing what is meant by

that language. If an Applicant fails to set forth an adequate disclosure, the Applicant has in effect

failed to particularly point out and distinctly claim the invention as required by the second

paragraph of section 112." *In re Donaldson Co.*, 16 F.3d 1189, 1195, 29 USPQ2d 1845, 1850

(Fed. Cir. 1994) (in banc). See MPEP § 2181(II).

        Applicant is required to:

        (a) Amend the claim so that the claim limitation will no longer be a means plus function

limitation under 35 U.S.C. § 112, sixth paragraph; or

        (b) Amend the written description of the specification such that it expressly recites what

structure, material, or acts perform the claimed function without introducing any new matter (35

U.S.C. § 132(a)).

        If the Applicant is of the opinion that the written description of the specification already

implicitly or inherently discloses the corresponding structure, material, or acts so that one of

ordinary skill in the art would recognize what structure, material, or acts perform the claimed

function, the Applicant is required to clarify the record by either:

(a) Amending the written description of the specification such that it expressly recites the corresponding structure, material, or acts for performing the claimed function and clearly links or associates the structure, material, or acts to the claimed function, without introducing any new matter (35 U.S.C. § 132(a)); or

(b) Stating on the record what the corresponding structure, material, or acts, which are implicitly or inherently set forth in the written description of the specification, perform the claimed function. For more information, see 37 CFR 1.75(d) and MPEP §§ 608.01(o) and 2181.

Claim 6 recites the limitations "the software" and "the stored names." There are insufficient antecedent bases for these limitations in the claim. In the interest of compact prosecution, the Examiner subsequently interprets these limitations as reading "a software" and "the stored name," respectively, for the purpose of further examination.

Claim 12 recites the limitation "the processing." There is insufficient antecedent basis for this limitation in the claim. In the interest of compact prosecution, the Examiner subsequently interprets this limitation as reading "the program" for the purpose of further examination.

Claims 1-12 contain additional limitations that have insufficient antecedent bases which are not listed for the purpose of brevity. Applicant is respectfully requested to review the pending claims for additional indefinite claim limitations and make any necessary corrections. In accordance with MPEP § 2173.02, the Examiner suggests keeping the claim language consistent throughout the claims to improve the clarity or precision of the claim language used. Hence,

doing so would help the Examiner in reviewing the claims for compliance with 35 U.S.C. § 112,

second paragraph.

Claim Rejections - 35 USC § 101

10.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or
> any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and
> requirements of this title.

11.   **Claims 1-7 and 12** are rejected under 35 U.S.C. 101 because the claimed invention is

directed to non-statutory subject matter.

        Claim 1 is directed to an apparatus containing various means plus function limitations

that invoke 35 U.S.C. § 112, sixth paragraph. However, the written description fails to disclose

the corresponding structure, material, or acts for the claimed functions. Consequently, the recited

means plus function limitations can be construed to cover software under the broadest reasonable

interpretation. Therefore, the claimed apparatus is ineligible subject matter under § 101.

        Claim 12 is directed to a program. However, the claimed program does not define any

structural and functional interrelationships between the program and other claimed elements of a

computer, which permit the program's functionality to be realized. Therefore, the claimed

program is ineligible subject matter under § 101.

        If the claimed product falls within one of the three product categories of invention and

does not recite judicially excepted subject matter, *e.g.*, an abstract idea, a mathematical

algorithm, a law of nature, or a natural phenomenon, it qualifies as eligible subject matter. If a

judicial exception is recited in the claim(s), it must be determined if the judicially excepted

subject matter has been practically applied in the product. A claim that includes terms that imply

that the invention is directed to a product, for instance by reciting "a machine comprising…", but

fails to include tangible limitations in accordance with its broadest reasonable interpretation is

not limited to a practical application, but rather wholly embraces or encompasses the concept

upon which the invention is based. This is impermissible as such claim coverage would extend to

every way of applying the abstract idea, law of nature, or natural phenomenon. While on the

contrary, a claim that includes judicially excepted subject matter and whose broadest reasonable

interpretation is directed to a man-made tangible embodiment (*i.e.*, structure) with a real world

use is limited to a practical application (the subject matter has been practically applied). The

reason is that the claim as a whole must be evaluated for eligibility in the same manner that a

claim as a whole is evaluated for patentability under §§ 102, 103 and 112.

Claims 2-7 depend on Claim 1 and, therefore, suffer the same deficiency as Claim 1.

Claim Rejections - 35 USC § 102

12.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on
> sale in this country, more than one year prior to the date of application for patent in the United States.

13.   **Claims 1-5 and 7-12** are rejected under 35 U.S.C. 102(b) as being anticipated by **US

2002/0166001 (hereinafter "Cheng").**

As per **Claim 1**, Cheng discloses:

- sending means for sending a user identification information for identifying a user using the information processing apparatus to the center computer *(see Paragraph [0050], "In each case, the user logs in 201 to the service provider computer [center computer] 102 with the client application 104 in a conventional manner, providing a user ID, a password, and the like. This information may be manually entered by the user via the client application 104, or more preferably, stored within the client application 104, and automatically provided once a connection between the client computer 101 and service provider computer 102 is established.");*

- first obtaining means for obtaining from the center computer a plurality of location informations indicating locations of a plurality of storing regions that correspond to the user identification information sent by the sending means, out of a plurality of location informations of the plurality of storing regions that are made to correspond to the user identification information of each of a plurality of users: the plurality of storing regions are provided on the network for storing update softwares for a plurality of softwares provided by a plurality of software vendors to the plurality of users *(see Figure 1; Paragraph [0043], "In system 100, there are a plurality of client computers 101 communicatively coupled by a network 106 to a service provider computer 102."; Paragraph [0064], "In accordance with the present invention, the service provider computer 102 includes a number of executable components and database structures useful for managing the software update interactions with the client computer 101 and the software vendor computers 103. These components include a security module 701, a*

communications module 703, a payment module 705, database modification tools 707, a update

database 709, a user profile database 711, a reporting tools module 713, a URL monitor module

715; an advertising/information database 717, and an activity log 718.”; Paragraph [0066],

“The update database 709 maintains information identifying a large number of software

products, information about the software updates that are available from the diverse software

product vendors for these software products, information for identifying software products

installed on a client computer 101, and for uniquely distinguishing the versions and names of

installed software products.”; Paragraph [0067], “In one embodiment, the update database 709

does not itself store the software updates, but rather stores information, such as URLs [plurality

of location informations], that allows the service provider computer 102 or the client computers

101 to directly access the software updates from the software vendor computers [plurality of

storing regions] 103.”);

    -   second obtaining means for obtaining a plurality of lists of the plurality of update

softwares by accessing to the plurality of storing regions storing the plurality of update softwares

according to the plurality of location informations obtained by the first obtaining means *(see*

Paragraph [0053], “For each of the installed software products on the list, the client application

104 determines 205 if there is an applicable, or relevant update for the software product. This

determination is made in consultation with the service provider computer 102, which maintains,

as further described below, a database including a list of available software updates for

numerous software products of diverse software vendors.”; Paragraph [0067], “In one

embodiment, the update database 709 does not itself store the software updates, but rather stores

information, such as URLs, that allows the service provider computer 102 or the client

computers 101 to directly access the software updates from the software vendor computers 103.");

- judging means for judging whether there is any update softwares to be obtained by comparing the obtained list and the softwares currently being installed in the information processing apparatus *(see Paragraph [0097], "For each installed product (1002) the system analyzer 907 queries the service provider computer 102 to resolve 1004 the name 815 and release number 818 of the product and determine if there a current update 821 for the product. This may be done by passing in the entire list as name, value pairs, or individually quarrying the service provider computer 102. In either cases, the service provider computer 102 determines if there is an applicable update for a software product by comparing the product name 815 and release information 818 to the product table 805, and obtaining the information in the latest update field 821.")*; and

- third obtaining means, when the judging means judges that there are some update softwares to be obtained, for obtaining the update softwares by accessing to each of the storing regions storing the update softwares for each of the software judged to be updated according to each of the obtained location informations *(see Paragraph [0100], "The client computer 101 accesses the identified URL(s) and downloads the software update files, typically from the software vendor computer 103, though downloads may be from mirror sites, or the like. The client computer 101 further downloads (from the received URLs) any additional installation files, such as installation executables, and scripts.")*.

As per **Claim 2**, the rejection of **Claim 1** is incorporated; and <u>Cheng</u> further discloses:

- wherein the plurality of update softwares are modules for updating softwares

currently being installed in a plurality of the information processing apparatuses of the plurality

of users that are made to correspond to the plurality of storing regions storing the plurality of

update softwares *(see Paragraph [0045], "Each software vendor computer 103 coupled to the*

service provider computer 102 stores software update information, software products,

information files, and the like. The software update information includes applications, binary

files, text files, and the like, for updating software products installed on client computers 101,

and advertising or other information about such products useful to users for evaluating potential

software for updating."); and

- wherein the judging means has:

- means for comparing the list of modules obtained from the plurality of storing regions

storing the plurality of update softwares and the list of modules that are currently being installed

in the information processing apparatus and forming a list of newer versions of the list of

modules than the list of modules currently being installed in the information processing

apparatus out of the list of modules obtained from the plurality of storing regions storing the

plurality of update softwares *(see Paragraph [0099], "Once all of the installed software*

products have been reviewed against the product table 805, the system analyzer 907 will have a

list 1007 of the applicable software updates, as those products for which it received an update

ID 819 from the service provider computer 102."); and

- means for presenting the formed list to the user and inputting a command to obtain

the newer version of the list of modules *(see Figure 4; Paragraph [0099], "The system analyzer*

907 can then display 206 the list to the user. An exemplary user interface is described above with respect to FIG. 4.");

-   wherein the second obtaining means obtains the newer version of the modules when the command to obtain the newer version thereof is inputted *(see Paragraph [0100], "The user selects one or more of the list software updates." and "The client computer 101 accesses the identified URL(s) and downloads the software update files, typically from the software vendor computer 103, though downloads may be from mirror sites, or the like. The client computer 101 further downloads (from the received URLs) any additional installation files, such as installation executables, and scripts.")*.

As per **Claim 3**, the rejection of **Claim 1** is incorporated; and <u>Cheng</u> further discloses:

-   wherein the plurality of update softwares are modules that are currently not being installed and to be added in the information processing apparatus of the plurality of users and that are made to correspond to the plurality of storing regions storing the plurality of update softwares *(see Paragraph [0045], "Each software vendor computer 103 coupled to the service provider computer 102 stores software update information, software products, information files, and the like. The software update information includes applications, binary files, text files, and the like, for updating software products installed on client computers 101, and advertising or other information about such products useful to users for evaluating potential software for updating.")*; and

-   wherein the judging means has:

- means for comparing the list of modules obtained from the plurality of storing regions storing the plurality of update softwares and the list of modules that are currently being installed in the information processing apparatus, and forming a list of modules that are currently not being installed in the information processing apparatus *(see Paragraph [0099], "Once all of the installed software products have been reviewed against the product table 805, the system analyzer 907 will have a list 1007 of the applicable software updates, as those products for which it received an update ID 819 from the service provider computer 102."),* and

- means for presenting the formed list to the plurality of users and inputting a command to obtain the list of modules currently not being installed *(see Figure 4; Paragraph [0099], "The system analyzer 907 can then display 206 the list to the user. An exemplary user interface is described above with respect to FIG. 4."),*

- wherein the second obtaining means obtains the list of modules currently not being installed in the information processing apparatus when the command to obtain the list of modules currently not being installed is inputted *(see Paragraph [0100], "The user selects one or more of the list software updates." and "The client computer 101 accesses the identified URL(s) and downloads the software update files, typically from the software vendor computer 103, though downloads may be from mirror sites, or the like. The client computer 101 further downloads (from the received URLs) any additional installation files, such as installation executables, and scripts.").*

As per **Claim 4**, the rejection of **Claim 2** is incorporated; and <u>Cheng</u> further discloses:

- means for accessing to the plurality of storing regions storing update softwares and obtains a list of modules again by accessing to the plurality of storing regions storing the plurality of update softwares according to the obtained location information when the command to obtain the list of modules is inputted *(see Paragraph [0053], "For each of the installed software products on the list, the client application 104 determines 205 if there is an applicable, or relevant update for the software product. This determination is made in consultation with the service provider computer 102, which maintains, as further described below, a database including a list of available software updates for numerous software products of diverse software vendors.")*; and

- means for re-forming the list of the newer version of modules according to the list obtained again *(see Paragraph [0099], "Once all of the installed software products have been reviewed against the product table 805, the system analyzer 907 will have a list 1007 of the applicable software updates, as those products for which it received an update ID 819 from the service provider computer 102.")*;

- wherein the second obtaining means obtains the newer version of the modules according to the re-formed list of modules *(see Paragraph [0100], "The user selects one or more of the list software updates." and "The client computer 101 accesses the identified URL(s) and downloads the software update files, typically from the software vendor computer 103, though downloads may be from mirror sites, or the like. The client computer 101 further downloads (from the received URLs) any additional installation files, such as installation executables, and scripts.")*.

As per **Claim 5**, the rejection of **Claim 3** is incorporated; and <u>Cheng</u> further discloses:

- means for accessing to the storing regions storing update softwares and obtains a list of modules again by accessing to the storing regions storing the update softwares according to the obtained location information when the command to obtain the modules is inputted *(see Paragraph [0053], "For each of the installed software products on the list, the client application 104 determines 205 if there is an applicable, or relevant update for the software product. This determination is made in consultation with the service provider computer 102, which maintains, as further described below, a database including a list of available software updates for numerous software products of diverse software vendors.")*; and

- means for re-forming the list of the modules currently not being installed in the information processing apparatus according to the obtained list *(see Paragraph [0099], "Once all of the installed software products have been reviewed against the product table 805, the system analyzer 907 will have a list 1007 of the applicable software updates, as those products for which it received an update ID 819 from the service provider computer 102.")*;

- wherein the second obtaining means obtains the list of modules currently not being installed according to the re-formed list of modules *(see Paragraph [0100], "The user selects one or more of the list software updates." and "The client computer 101 accesses the identified URL(s) and downloads the software update files, typically from the software vendor computer 103, though downloads may be from mirror sites, or the like. The client computer 101 further downloads (from the received URLs) any additional installation files, such as installation executables, and scripts.").*

As per **Claim 7**, the rejection of **Claim 1** is incorporated; and <u>Cheng</u> further discloses:

- wherein the information processing apparatus is capable of communicating with a link machine as a master machine through the network *(see Figure 1; Paragraph [0043], "In system 100, there are a plurality of client computers 101 communicatively coupled by a network 106 to a service provider computer [link machine] 102.")*; and

- wherein the information processing apparatus has means for having the link machine compare the list of modules of the update softwares obtained from the storing regions and the modules that is currently being installed in the information processing apparatus and judge whether there are any update softwares to be obtained, and when there are some update softwares judged to be obtained, access to storing region for each of the software judged to be obtained according to each of the obtained location informations and obtain the necessary update softwares from the storing regions storing the update softwares *(see Paragraph [0097], "For each installed product (1002) the system analyzer 907 queries the service provider computer 102 to resolve 1004 the name 815 and release number 818 of the product and determine if there a current update 821 for the product. This may be done by passing in the entire list as name, value pairs, or individually quarrying the service provider computer 102. In either cases, the service provider computer 102 determines if there is an applicable update for a software product by comparing the product name 815 and release information 818 to the product table 805, and obtaining the information in the latest update field 821."; Paragraph [0100], "The client computer 101 accesses the identified URL(s) and downloads the software update files, typically from the software vendor computer 103, though downloads may be from mirror sites, or the like.*

The client computer 101 further downloads (from the received URLs) any additional installation

files, such as installation executables, and scripts.").

As per **Claim 8**, <u>Cheng</u> discloses:

- wherein the center computer has:

- means for previously putting away update softwares for a plurality of softwares

provided to a plurality of users by a plurality of software vendors in a plurality of storing regions

storing a plurality of update softwares that are provided on the network so that each of the

storing regions corresponds to each of a plurality of location informations indicating a location of

each of the plurality of storing regions for each of the update softwares and a plurality of user

identification informations of each of the plurality of users *(see Figure 1; Paragraph [0043], "In*

system 100, there are a plurality of client computers 101 communicatively coupled by a network

106 to a service provider computer 102."; Paragraph [0064], "In accordance with the present

invention, the service provider computer 102 includes a number of executable components and

database structures useful for managing the software update interactions with the client

computer 101 and the software vendor computers 103. These components include a security

module 701, a communications module 703, a payment module 705, database modification tools

707, a update database 709, a user profile database 711, a reporting tools module 713, a URL

monitor module 715; an advertising/information database 717, and an activity log 718.";

Paragraph [0066], "The update database 709 maintains information identifying a large number

of software products, information about the software updates that are available from the diverse

software product vendors for these software products, information for identifying software

products installed on a client computer 101, and for uniquely distinguishing the versions and names of installed software products."; Paragraph [0067], "In one embodiment, the update database 709 does not itself store the software updates, but rather stores information, such as URLs [plurality of location informations], that allows the service provider computer 102 or the client computers 101 to directly access the software updates from the software vendor computers [plurality of storing regions] 103."),

- receiving means for receiving the user identification information from the information processing apparatus *(see Paragraph [0050], "In each case, the user logs in 201 to the service provider computer 102 with the client application 104 in a conventional manner, providing a user ID, a password, and the like. This information may be manually entered by the user via the client application 104, or more preferably, stored within the client application 104, and automatically provided once a connection between the client computer 101 and service provider computer 102 is established.")*, and

- referencing means for having the information processing apparatus refer to the location information of the storing regions for update softwares that corresponds to the user identification information when the user identification information is received by the referencing means *(see Paragraph [0100], "The client computer 101 accesses the identified URL(s) and downloads the software update files, typically from the software vendor computer 103, though downloads may be from mirror sites, or the like. The client computer 101 further downloads (from the received URLs) any additional installation files, such as installation executables, and scripts.")*;

- wherein the information processing apparatus of the user has:

- sending means for sending the user identification information to the center computer *(see Paragraph [0050], "In each case, the user logs in 201 to the service provider computer [center computer] 102 with the client application 104 in a conventional manner, providing a user ID, a password, and the like. This information may be manually entered by the user via the client application 104, or more preferably, stored within the client application 104, and automatically provided once a connection between the client computer 101 and service provider computer 102 is established."),*

- first obtaining means for obtaining a plurality of location informations indicating locations of a plurality of storing regions that corresponds to the user identification information sent by the sending means *(see Paragraph [0067], "In one embodiment, the update database 709 does not itself store the software updates, but rather stores information, such as URLs, that allows the service provider computer 102 or the client computers 101 to directly access the software updates from the software vendor computers 103."),*

- second obtaining means for obtaining a plurality of lists of the plurality of update softwares by accessing to the plurality of storing regions storing the plurality of update softwares according to the plurality of location informations obtained by the first obtaining means *(see Paragraph [0053], "For each of the installed software products on the list, the client application 104 determines 205 if there is an applicable, or relevant update for the software product. This determination is made in consultation with the service provider computer 102, which maintains, as further described below, a database including a list of available software updates for numerous software products of diverse software vendors."; Paragraph [0067], "In one embodiment, the update database 709 does not itself store the software updates, but rather stores*

information, such as URLs, that allows the service provider computer 102 or the client

computers 101 to directly access the software updates from the software vendor computers

103."),

     -   judging means for judging whether there is any update softwares to be obtained by

comparing the obtained list and the softwares currently being installed in the information

processing apparatus *(see Paragraph [0097], "For each installed product (1002) the system*

analyzer 907 queries the service provider computer 102 to resolve 1004 the name 815 and

release number 818 of the product and determine if there a current update 821 for the product.

This may be done by passing in the entire list as name, value pairs, or individually quarrying the

service provider computer 102. In either cases, the service provider computer 102 determines if

there is an applicable update for a software product by comparing the product name 815 and

release information 818 to the product table 805, and obtaining the information in the latest

update field 821."), and

     -   third obtaining means, when the judging means judges that there are some update

softwares to be obtained, for obtaining the update softwares by accessing to each of the storing

regions storing the update softwares for each of the software judged to be updated according to

each of the obtained location informations *(see Paragraph [0100], "The client computer 101*

accesses the identified URL(s) and downloads the software update files, typically from the

software vendor computer 103, though downloads may be from mirror sites, or the like. The

client computer 101 further downloads (from the received URLs) any additional installation

files, such as installation executables, and scripts.").

As per **Claim 9**, the rejection of **Claim 8** is incorporated; and <u>Cheng</u> further discloses:

- wherein the plurality of storing regions storing the update softwares are provided for each of the plurality of software vendors *(see Figure 1; Paragraph [0045], "Each software vendor computer 103 coupled to the service provider computer 102 stores software update information, software products, information files, and the like. The software update information includes applications, binary files, text files, and the like, for updating software products installed on client computers 101, and advertising or other information about such products useful to users for evaluating potential software for updating."),*

- wherein the means for putting the plurality of update softwares to the plurality of storing regions for update softwares by each of a plurality of different softwares provided by each of the plurality of software vendors so that each of the plurality of software updates corresponds each of the plurality of location informations for each of the update softwares and each of the plurality of user identification informations *(see Paragraph [0045], "Each software vendor computer 103 coupled to the service provider computer 102 stores software update information, software products, information files, and the like. The software update information includes applications, binary files, text files, and the like, for updating software products installed on client computers 101, and advertising or other information about such products useful to users for evaluating potential software for updating."; Paragraph [0067], "In one embodiment, the update database 709 does not itself store the software updates, but rather stores information, such as URLs, that allows the service provider computer 102 or the client computers 101 to directly access the software updates from the software vendor computers 103.");*

- wherein the first obtaining means obtains each of the location informations for each of the software storing regions storing update softwares corresponding to the user identification information *(see Paragraph [0067], "In one embodiment, the update database 709 does not itself store the software updates, but rather stores information, such as URLs, that allows the service provider computer 102 or the client computers 101 to directly access the software updates from the software vendor computers 103.")*, and

- wherein the second obtaining means and the third obtaining means access to each of the plurality of storing regions storing update softwares according to each of the plurality of location informations *(see Paragraph [0100], "The client computer 101 accesses the identified URL(s) and downloads the software update files, typically from the software vendor computer 103, though downloads may be from mirror sites, or the like. The client computer 101 further downloads (from the received URLs) any additional installation files, such as installation executables, and scripts.")*.

As per **Claim 10**, the rejection of **Claim 8** is incorporated; and <u>Cheng</u> further discloses:

- wherein the means for previously putting the plurality of update softwares in the plurality of storing regions storing update softwares so that each of a combination or a plurality of combinations out of the different softwares provided by the plurality of software vendors corresponds to the plurality of location informations of each of the plurality of storing regions for each of the update softwares and the user identification information of each of the plurality of users *(see Paragraph [0043], "In system 100, there are a plurality of client computers 101 communicatively coupled by a network 106 to a service provider computer 102."; Paragraph*

[0064], "In accordance with the present invention, the service provider computer 102 includes a

number of executable components and database structures useful for managing the software

update interactions with the client computer 101 and the software vendor computers 103. These

components include a security module 701, a communications module 703, a payment module

705, database modification tools 707, a update database 709, a user profile database 711, a

reporting tools module 713, a URL monitor module 715; an advertising/information database

717, and an activity log 718."; Paragraph [0066], "The update database 709 maintains

information identifying a large number of software products, information about the software

updates that are available from the diverse software product vendors for these software

products, information for identifying software products installed on a client computer 101, and

for uniquely distinguishing the versions and names of installed software products."; Paragraph

[0067], "In one embodiment, the update database 709 does not itself store the software updates,

but rather stores information, such as URLs [plurality of location informations], that allows the

service provider computer 102 or the client computers 101 to directly access the software

updates from the software vendor computers [plurality of storing regions] 103.").

As per **Claim 11**, <u>Cheng</u> discloses:

- sending a user identification information for identifying a user using the information

processing apparatus to the center computer *(see Paragraph [0050], "In each case, the user logs*

in 201 to the service provider computer [center computer] 102 with the client application 104 in

a conventional manner, providing a user ID, a password, and the like. This information may be

manually entered by the user via the client application 104, or more preferably, stored within the

client application 104, and automatically provided once a connection between the client

computer 101 and service provider computer 102 is established.”);

- obtaining from the center computer a plurality of location informations indicating

locations of a plurality of storing regions that correspond to the user identification information

sent by the sending means, out of a plurality of location informations of the plurality of storing

regions that are made to correspond to the user identification information of each of a plurality of

users: the plurality of storing regions are provided on the network for storing update softwares

for a plurality of softwares provided by a plurality of software vendors to the plurality of users

(see Figure 1; Paragraph [0043], “In system 100, there are a plurality of client computers 101

communicatively coupled by a network 106 to a service provider computer 102.”; Paragraph

[0064], “In accordance with the present invention, the service provider computer 102 includes a

number of executable components and database structures useful for managing the software

update interactions with the client computer 101 and the software vendor computers 103. These

components include a security module 701, a communications module 703, a payment module

705, database modification tools 707, a update database 709, a user profile database 711, a

reporting tools module 713, a URL monitor module 715; an advertising/information database

717, and an activity log 718.”; Paragraph [0066], “The update database 709 maintains

information identifying a large number of software products, information about the software

updates that are available from the diverse software product vendors for these software

products, information for identifying software products installed on a client computer 101, and

for uniquely distinguishing the versions and names of installed software products.”; Paragraph

[0067], “In one embodiment, the update database 709 does not itself store the software updates,

but rather stores information, such as URLs [plurality of location informations], that allows the

service provider computer 102 or the client computers 101 to directly access the software

updates from the software vendor computers [plurality of storing regions] 103.");

- accessing to the plurality of storing regions for update softwares according to the

received plurality of location informations and obtaining a plurality of lists of software to be

updated from the plurality of storing regions storing update softwares *(see Paragraph [0053],*

"For each of the installed software products on the list, the client application 104 determines

205 if there is an applicable, or relevant update for the software product. This determination is

made in consultation with the service provider computer 102, which maintains, as further

described below, a database including a list of available software updates for numerous software

products of diverse software vendors."; Paragraph [0067], "In one embodiment, the update

database 709 does not itself store the software updates, but rather stores information, such as

URLs, that allows the service provider computer 102 or the client computers 101 to directly

access the software updates from the software vendor computers 103.");

- judging whether there are any update softwares to be obtained by comparing the list

of the update softwares and the softwares currently being installed in the information processing

apparatus *(see Paragraph [0097], "For each installed product (1002) the system analyzer 907*

queries the service provider computer 102 to resolve 1004 the name 815 and release number 818

of the product and determine if there a current update 821 for the product. This may be done by

passing in the entire list as name, value pairs, or individually quarrying the service provider

computer 102. In either cases, the service provider computer 102 determines if there is an

applicable update for a software product by comparing the product name 815 and release

information 818 to the product table 805, and obtaining the information in the latest update field

821."); and

-    obtaining necessary update softwares from the storing regions storing update

softwares for each of the software judged to be obtained by accessing to each of the storing

regions storing update softwares according to the location information when there is an update

software judged to be obtained *(see Paragraph [0100], "The client computer 101 accesses the*

identified URL(s) and downloads the software update files, typically from the software vendor

computer 103, though downloads may be from mirror sites, or the like. The client computer 101

further downloads (from the received URLs) any additional installation files, such as installation

executables, and scripts.").

As per **Claim 12**, Cheng discloses:

-    a sending step for sending an user identification information for identifying an user

using the information processing apparatus to the center computer *(see Paragraph [0050], "In*

each case, the user logs in 201 to the service provider computer [center computer] 102 with the

client application 104 in a conventional manner, providing a user ID, a password, and the like.

This information may be manually entered by the user via the client application 104, or more

preferably, stored within the client application 104, and automatically provided once a

connection between the client computer 101 and service provider computer 102 is

established.");

-    an obtaining step for obtaining from the center computer a plurality of location

informations indicating locations of a plurality of storing regions that correspond to the user

identification information sent by the sending means, out of a plurality of location informations

of the plurality of storing regions that are made to correspond to the user identification

information of each of a plurality of users: the plurality of storing regions are provided on the

network for storing update softwares for a plurality of softwares provided by a plurality of

software vendors to the plurality of users *(see Figure 1; Paragraph [0043], "In system 100,*

there are a plurality of client computers 101 communicatively coupled by a network 106 to a

service provider computer 102."; Paragraph [0064], "In accordance with the present invention,

the service provider computer 102 includes a number of executable components and database

structures useful for managing the software update interactions with the client computer 101 and

the software vendor computers 103. These components include a security module 701, a

communications module 703, a payment module 705, database modification tools 707, a update

database 709, a user profile database 711, a reporting tools module 713, a URL monitor module

715; an advertising/information database 717, and an activity log 718."; Paragraph [0066],

"The update database 709 maintains information identifying a large number of software

products, information about the software updates that are available from the diverse software

product vendors for these software products, information for identifying software products

installed on a client computer 101, and for uniquely distinguishing the versions and names of

installed software products."; Paragraph [0067], "In one embodiment, the update database 709

does not itself store the software updates, but rather stores information, such as URLs [plurality

of location informations], that allows the service provider computer 102 or the client computers

101 to directly access the software updates from the software vendor computers [plurality of

storing regions] 103.");

- an accessing step for accessing to the plurality of storing regions for update softwares according to the received plurality of location informations and obtaining a plurality of lists of software to be updated from the plurality of storing regions storing update softwares *(see Paragraph [0053], "For each of the installed software products on the list, the client application 104 determines 205 if there is an applicable, or relevant update for the software product. This determination is made in consultation with the service provider computer 102, which maintains, as further described below, a database including a list of available software updates for numerous software products of diverse software vendors."; Paragraph [0067], "In one embodiment, the update database 709 does not itself store the software updates, but rather stores information, such as URLs, that allows the service provider computer 102 or the client computers 101 to directly access the software updates from the software vendor computers 103.")*;

- a judging step for judging whether there are any update softwares to be obtained by comparing the list of the update softwares and the softwares currently being installed in the information processing apparatus *(see Paragraph [0097], "For each installed product (1002) the system analyzer 907 queries the service provider computer 102 to resolve 1004 the name 815 and release number 818 of the product and determine if there a current update 821 for the product. This may be done by passing in the entire list as name, value pairs, or individually quarrying the service provider computer 102. In either cases, the service provider computer 102 determines if there is an applicable update for a software product by comparing the product name 815 and release information 818 to the product table 805, and obtaining the information in the latest update field 821.")*; and

-       an obtaining step for obtaining necessary update softwares from the storing regions

storing update softwares for each of the software judged to be obtained by accessing to each of

the storing regions storing update softwares according to the location information when there is

an update software judged to be obtained *(see Paragraph [0100], "The client computer 101*

accesses the identified URL(s) and downloads the software update files, typically from the

software vendor computer 103, though downloads may be from mirror sites, or the like. The

client computer 101 further downloads (from the received URLs) any additional installation

files, such as installation executables, and scripts.").

Claim Rejections - 35 USC § 103

14.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

15.   **Claim 6** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Cheng** in view of

US 6,950,964 (hereinafter "McMichael").

As per **Claim 6**, the rejection of **Claim 1** is incorporated; however, <u>Cheng</u> does not

disclose:

-       means for previously storing a name of a software that is being excluded from the

judgment of judging whether there are any update softwares to be obtained; and

- means for restricting updating softwares according to the stored name of the software.

McMichael discloses:

- means for previously storing a name of a software that is being excluded from the judgment of judging whether there are any update softwares to be obtained *(see Column 2: 53-61, "A system, according to one aspect of the invention, compares a requested driver to a list of faulty drivers from a faulty driver database. Upon a request to load a driver, the requested driver is blocked or prevented from loading if the requested driver is identified in the list of faulty drivers. Upon a request to install a driver, the requested driver can be blocked or prevented from being installed if the requested driver is identified in the list of faulty drivers.");* and

- means for restricting updating softwares according to the stored name of the software *(see Column 2: 53-61, "A system, according to one aspect of the invention, compares a requested driver to a list of faulty drivers from a faulty driver database. Upon a request to load a driver, the requested driver is blocked or prevented from loading if the requested driver is identified in the list of faulty drivers. Upon a request to install a driver, the requested driver can be blocked or prevented from being installed if the requested driver is identified in the list of faulty drivers.").*

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of McMichael into the teaching of Cheng to modify Cheng's invention to include means for previously storing a name of a software that is being excluded from the judgment of judging whether there are any update softwares to be obtained; and means for restricting updating softwares according to the stored name of the

software. The modification would be obvious because one of ordinary skill in the art would be

motivated to facilitate computer system stability by mitigating faulty update software from being

loaded and/or installed *(see McMichael – Column 2: 48-51).*

Conclusion

16.   The prior art made of record and not relied upon is considered pertinent to Applicant's

disclosure.

* **US 2002/0174422 (hereinafter "Kelley")** discloses a system to securely install

software upgrades and patches.

* **US 2003/0046675 (hereinafter "Cheng")** discloses systems, methods, and products

for automatically updating software products from diverse software vendors on a plurality of

end-user, client computer systems.

* **US 2003/0046676 (hereinafter "Cheng")** discloses systems, methods, and products

for automatically updating software products from diverse software vendors on a plurality of

end-user, client computer systems.

* **US 5,586,304 (hereinafter "Stupek")** discloses a method for use in upgrading a

resource of a computer from an existing version of the resource to a later version of the resource.

* **US 5,809,287 (hereinafter "Stupek")** discloses a method for use in upgrading a

resource of a computer from an existing version of the resource to a later version of the resource.

* **US 5,835,911 (hereinafter "Nakagawa")** discloses a software distribution and

maintenance system and method with which a software vendor can provide a number of users

with software over a network, and update and maintain the software at requests of the users, and

with which the users obtain a lot of software from plural software vendors over the network and can use the latest versions of the software over the network.

- **US 5,960,189 (hereinafter "Stupek")** discloses a method for use in upgrading a resource of a computer from an existing version of the resource to a later version of the resource.

- **US 6,151,643 (hereinafter "Cheng")** discloses systems, methods, and products for automatically updating software products from diverse software vendors on a plurality of end-user, client computer systems.

- **US 6,457,076 (hereinafter "Cheng")** discloses systems, methods, and products for automatically updating software products from diverse software vendors on a plurality of end-user, client computer systems.

- **US 6,542,943 (hereinafter "Cheng")** discloses systems, methods, and products for automatically updating software products from diverse software vendors on a plurality of end-user, client computer systems.

- **US 6,557,054 (hereinafter "Reisman")** discloses a method and corresponding system for distributing updates for a plurality of different products to a plurality of uncoordinated user stations via a non-proprietary network.

- **US 6,763,403 (hereinafter "Cheng")** discloses systems, methods, and products for automatically updating software products from diverse software vendors on a plurality of end-user, client computer systems.

- **US 7,093,246 (hereinafter "Brown")** discloses a method and system for updating software applications or systems on a target client.

17.   Any inquiry concerning this communication or earlier communications from the

Examiner should be directed to Qing Chen whose telephone number is 571-270-1071. The

Examiner can normally be reached on Monday through Thursday from 7:30 AM to 4:00 PM.

The Examiner can also be reached on alternate Fridays.

        If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's

supervisor, Wei Zhen, can be reached on 571-272-3708. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

        Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the TC 2100 Group receptionist whose telephone number is 571-272-2100.

        Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Q. C./

Examiner, Art Unit 2191

/Anna Deng/

Primary Examiner, Art Unit 2191